

75-1027

DDA 75-1065

8 MAR 75

MEMORANDUM FOR: Director of Central Intelligence

SUBJECT : FOIA Guidelines

Sir:

1. Attached hereto is a draft paper outlining certain policy and procedural guidelines relating to the handling of FOIA requests. The guidelines were arrived at as a result of discussions between OGC and the primarily concerned elements of the DDA. Please let me know if you have any comments concerning the draft or care to provide any further guidance. It is my intention to put out the guidelines under my signature for the interim use of personnel involved in the FOIA decision-making process.

2. One subject that was discussed while we were formulating the guidelines and on which we would appreciate your guidance concerns requests from Congressmen on the behalf of their constituents. While it is our desire to be as responsive to members of Congress as is feasible, we are somewhat concerned that by dealing through Congressmen we might in some manner violate the privacy of the individual constituent concerned. Argument can be made that the proper course for us to follow would be to suggest to the requesting Congressman that he advise his constituent to deal directly with the Agency. On the other hand, such an approach may be considered unacceptable to certain Congressmen and it has been noted, to a certain degree at least, a constituent waives certain of his privacy by the very fact of his initial request to his Congressman. In any event, this situation is one which we would like to handle in a manner that is completely acceptable to you, and I suggest therefore that it might be worthwhile for George Cary and me to meet with you on this matter.

/s/John F. Blake

John F. Blake
Deputy Director
for
Administration

Attachment: a/s

AC-DDA [] ydc (5 Mar 75)

Distribution:

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D R A F T

5 March 1975

MEMORANDUM FOR THE RECORD

SUBJECT: FOIA Procedural Guidelines

1. At a meeting held on 26 February in the Office of the DDA and attended by Messrs. Blake, Warner, [] Lansdale, [] the procedural guidelines covered in a. and b. below were agreed to on a tentative basis subject to amendment or change which may result in the future as a result of experience, additional guidance from the Department of Justice or refined or additional legal opinion.

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a. Individual questions which had been posed by the DDA:

(1) Need to develop a system to verify that an individual requesting his file is, in fact, that individual.

Guideline: We should not convey any information to an individual requestor until we have verified that he is, in fact, who he claims to be. OGC will research this problem further. In the interim where time restraints require a response to the individual, we should state that the release of material is being deferred pending the development of our procedures on verification. It was

noted that there is no objection to transmitting a completely negative response to an individual requestor without a verification of his identity.

(2) Should correspondence from lawyers asking for files or information on individuals identified as clients be so handled that we demand client's authorization before processing?

Guideline: After some discussion, it was agreed that since lawyers are licensed professionals and officers of a court and are, in addition, subject to severe penalties for misrepresenting a lawyer-client relationship, we will not require a formal client authorization in any cases where, in our judgment, the client and an individual on whom we have record material appear to be the same individual. If, on the other hand, in our record research we find material which may or may not refer to the individual identified as the client, we may request the lawyer to provide us with additional identifying data.

(3) In handling requests from individuals for files, can we appeal to our exemptions under the Privacy Act which does not take effect until October?

Guideline: We may not appeal to our exemptions under the Privacy Act as that law is not yet operative.

(4) Can we utilize a rationale to deny file requests on the basis that over a period of time that being responsive to a significant number of such requests will divulge a pattern of individuals on whom we have files and this could impinge on a "sources and methods" exemption?

Guideline: No. This matter was raised with the Director and he did not agree to such an approach.

(5) If we have a file consisting of 20 newspaper clippings and 10 reports from other agencies -- such material being excluded under our definition of CIA records -- do we or don't we have a file on the individual?

Guideline: It was concluded that under these circumstances we do have a file on the individual. However, generally our response to the requestor should indicate (without normally acknowledging or disclaiming the existence of the file itself) that we "have no records as defined in Section 1900.3 of our regulation published in the Federal Register." In other cases, it might be in order to provide some of the documents, even though we don't have to.

(6) As it pertains to reports from other Government agencies, what do we do? Do we remain silent, do we inform the requestor, and/or do we transfer action to the other agency?

Guideline: Where our search reveals records from other Government agencies in our possession, the action for

responding to the requestor on these records should be referred to the responsible agency. CIA will remain silent vis-a-vis the requestor concerning this referral action.

(7) If we have a file containing index cards only that lead to other documents, which are scattered, and which contain the name of the requestor, do we then have a file?

Guideline:

(a) No. The existence in a file system of index cards does not constitute a file on the subject of the index cards.

(b) However, should index cards relating to the same subject have been removed from an index system and gathered together in a folder, envelope, etc., the segregated collection of index cards would, indeed, constitute a file on the subject of the cards. In such a case, a determination would have to be made as to whether the nature of the documents referred to is such that they, too, constitute a part of the "file."

(8) We do not have a file on an individual but find a travel document provided by a foreign liaison service where the individual's name, along with others, is acknowledged. Do we admit its existence?

Guideline: We would not admit its existence. Our possession of an individual travel document which was

obtained as a result of a routine system of receiving travel data on numerous individuals does not in itself constitute the maintenance of a file on any one particular individual. In addition, the existence of such a system where foreign sources are involved clearly warrants protection.

b. The Director of Security stated that he felt it was imperative that we arrive at some, at least tentative, guidelines as pertains to the processing of requests for files under his control.

(1) Addressing first the polygraph files maintained by the Office of Security, he stated that he would choose to exempt the contents of these files from disclosure under exemptions 2, 3 and 7 (2-internal personnel rules and practices; 3-protected by statute; 7-investigatory records) regardless of whether or not the material in the files was classified. (Current polygraph material, at least, is normally prepared in unclassified form.)

(2) As regards investigative files, expressed his desire to invoke exemptions 2, 3, 6 (privacy exemption), where appropriate, and 7, once again regardless of the classification of material contained therein. It was agreed by the group that the maximum number of exemptions should be invoked in order to afford the greatest amount of protection. While

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any one or more of the exemptions may be challenged in any particular case, the use of multiple exemptions increases the chances for sustaining at least one.

(3) The group concurred in approach and the utilization of the exemptions he cited and agreed further that this approach should be taken as regards (a) requests for one's own file by former applicants, current employees or former employees as well as (b) individuals requesting security records on third parties.

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2. These guidelines are to be utilized, effective immediately, and until such time as they are amended.

John F. Blake
Deputy Director
for
Administration

MAR 6 2 57 PM '75

ROUTING AND RECORD SHEET

for RB of 6 March

SUBJECT: (Optional)

FROM: John F. Blake
Deputy Director for Administration

EXTENSION

NO.

DATE

STAT

TO: (Officer designation, room number, and building)

DATE

RECEIVED

FORWARDED

OFFICER'S INITIALS

COMMENTS (Number each comment to show from whom to whom. Draw a line across column after each comment.)

1. *ABC*
Director of Central Intelligence

3/6 3/10

COPY OF ATTACHED DDA MEMO BEING FORWARDED TO LC

Executive Registry

75-1027/1

DDA

Our reply should protect us against a ~~charge~~ charge of false answer if we have no "file" but do have the individual indexed so that a "file" could be developed - how do we solve this?

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ROUTING AND RECORD SHEET

SUBJECT: (Optional)

Executive Registry

75-1029/2

FROM:

John F. Blake
Deputy Director for Administration

EXTENSION

NO.

DDA 75-0966

I-6

DATE

19 MAR 1975

TO: (Officer designation, room number, and building)

DATE

RECEIVED

FORWARDED

OFFICER'S INITIALS

COMMENTS (Number each comment to show from whom to whom. Draw a line across column after each comment.)

1. Director of
Central Intelligence

2.

3. Deputy Director for
Administration

4.

5.

6.

7.

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12.

13.

14.

15.

Sir:

When you reviewed the attached FOIA guidelines in draft, you raised two points which we have attempted to cover in the attached version:

a. Re (3) on page 2 you asked if we could not invoke the privacy principle against third party requests. A sentence was added to the guideline to cover this point.

b. Re (8) on page 3 you stated that our replies should protect us against charges of false answers in the question of "file" versus "index systems." We have expanded the guideline accordingly.

If you now find the paper satisfactory, I will sign it and distribute it to component FOI Officers.

John F. Blake

EXECUTIVE REGISTRY FILE

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Approved For Release 2004/10/28 : CIA-RDP80M01066A000800140006-5